

Title	Child Custody: Education, Experience, and Training Standards for Evaluators (amend Cal. Rules of Court, rule 5.225; adopt form FL-325; revise form FL-326)
Summary	The committee is recommending changes in the experience requirements and alternative appointment criteria for child custody evaluators in rule 5.225 of the California Rules of Court. The proposed amendments would also clarify the requirements for court-connected evaluators beginning practice. Finally, the proposed new and revised forms are necessary for court-connected and private evaluators to demonstrate compliance with the rule's provisions.
Source	Family and Juvenile Law Advisory Committee Hon. Mary Ann Grilli and Hon. Susan Huguenor, Co-chairs
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Discussion	<p>Rule 5.225 of the California Rules of Court establishes education, experience, and training standards for court-appointed child custody investigators and evaluators.</p> <p>The Family and Juvenile Law Advisory Committee proposes the following amendments to the subdivisions of the rule discussing evaluators:</p> <ol style="list-style-type: none"> 1. In subdivision (e), add language specifying the means of completing the 40 hours of required training. Permissible means would include in-person instruction and distance learning, such as broadcast instruction or online study. In-person instruction would include the traditional classroom approach of training as well as directed learning, in which there are structured assignments and some level of interaction between the instructor and the participants. Due to current budget constraints, the proposed language aims to provide flexibility in meeting the rule's requirements by expanding the permissible means of obtaining training. It further seeks to provide clarification by specifically identifying ways to fulfill the 40-hour training requirement. 2. In subdivision (e), eliminate language that allows evaluators to complete up to 10 hours of training through self-study. The term "self-study" is vague and creates confusion as to what

qualifies as self-study. The provision is also unnecessary given the specific identification of permissible means of training described above.

3. In subdivision (f)(2), amend the means of satisfying the experience requirements by allowing evaluators to conduct the first three child custody evaluations to which they are appointed in consultation with another professional who meets the education, experience, and training requirements of the rule. The proposed amendment would reduce the total number of evaluations necessary to fulfill the experience requirements from six to three to be consistent with subdivision (f)(1). It would also eliminate the requirement that the evaluator fulfill the experience requirements prior to appointment—courts would be permitted to appoint evaluators with no previous experience to perform evaluations, so long as the evaluator’s first three evaluations were completed in consultation with a professional meeting the requirements of the rule.
4. Move current subdivision (i)—which concerns training and experience requirements for court-connected evaluators beginning practice—up and re-letter it as (g) so that it is positioned logically after the training and experience requirements of subdivisions (e) and (f).
5. In proposed subdivision (g) (current subdivision (i)), amend the language to clarify the training and experience requirements for court-connected evaluators who are beginning practice. Because of the wording of current subdivision (i), it is unclear both to whom the subdivision applies and what it requires. The proposed amended title is “Court-connected evaluators”; other proposed amendments clarify that the subdivision is intended to apply to evaluators beginning practice as child custody evaluators, and break down each criterion that must be met in order for court-connected evaluators beginning practice to conduct evaluations.
6. Amend subdivision (j) so that it condenses and modifies the information contained in current subdivisions (j) and (k). The exact language now found in subdivision (k), which concerns licensing requirements, would become proposed subdivision (j)(1). Current subdivision (j), which governs appointment when no evaluators are available who meet the requirements of the

rule, would become proposed subdivision (j)(2). Proposed subdivision (j)(2), however, would eliminate the requirement that alternative evaluators possess a master's or doctoral degree to be appointed. This would assist counties in which there are alternative child custody evaluators who are well qualified to perform evaluations but do not possess a master's or doctoral degree. The proposal therefore requires these evaluators to complete only the education, experience, and training requirements of the rule to qualify for appointment.

7. In proposed subdivision (l) (current subdivision (m)), clarify the process for submitting declarations of compliance with the applicable education, experience, and training requirements of the rule, including separate forms for court-connected and private evaluators. Proposed subdivision (l)(1)(A) requires court-connected evaluators practicing as of January 1 of the given year to file proposed form FL-325, *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications*, by January 30 of that same year. Court-connected evaluators beginning practice after January 1 are required to file form FL-325 before beginning work on an evaluation and by January 30 of every year thereafter. Proposed subdivision (l)(1)(B) requires private evaluators to file form FL-326, renamed *Declaration of Private Child Custody Evaluator Regarding Qualifications*, no later than 10 days after notification of each appointment and before any work on each evaluation has begun. The use of different forms is necessary because of aspects particular to private evaluators that are not relevant to court-connected evaluators, such as the need to include a case caption box. Details of these related form proposals are discussed below.
8. Make grammatical and clarifying changes to improve the fluidity of the rule.

The committee further proposes adopting form FL-325 and revising form FL-326 to reflect the distinctions between the two types of child custody evaluators in these proceedings: the private evaluator and the court-connected evaluator. As stated above, proposed subdivision (l)(1)(A) requires a court-connected evaluator to file a declaration of his or her qualifications annually. This annual declaration relates to all evaluations performed for the court in a given year, rather than to a specific case, and the declaration should be filed with family court services instead of in the court case file. Proposed subdivision

(l)(1)(B), on the other hand, requires private evaluators to file a declaration of their qualifications within 10 days after notification of each appointment and before any work on each child custody evaluation has begun. The form must be filed in the court file for each case to which the private evaluator is appointed. Due to the difference in filing requirements for court-connected and private evaluators, two separate forms should be utilized that reflect the appropriate filing requirements.

Current form FL-326, *Declaration of Child Custody Evaluator Regarding Qualifications*, applies to both court-connected and private evaluators. This proposal would revise that form to be used solely by private evaluators. The proposed title of the revised form would therefore be *Declaration of Private Child Custody Evaluator Regarding Qualifications* to make clear who should file the form. The identifying information in the caption at the top of the form would also be revised to ask for the evaluator's name and contact information since it is an evaluator, and not an attorney or a party to the action, who is required to fill out the form. Finally, the form would distinguish between private evaluators who are currently in compliance with the rule and those who are in compliance with all provisions except the licensing requirements in proposed subdivision (j)(1). The court may appoint unlicensed private evaluators to perform child custody evaluations if they meet the alternative appointment criteria set forth in Family Code section 3110.5(d) and rule 5.225(j)(2).

Proposed new form FL-325 follows essentially the same format as revised form FL-326. However, the proposed title of form FL-325 is *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications* since it would apply only to court-connected evaluators. Also, proposed form FL-325 does not include the case-specific designation and court file information found in form FL-326. Court-connected evaluators do not need a caption for case-specific information because, unlike private evaluators, they are not required to file the form in the case file of each case to which they are appointed. Finally, form FL-325 would distinguish between court-connected evaluators who have fully complied with the education, experience, and training requirements of rule 5.225 and those who qualify for appointment under proposed subdivision (g). Proposed subdivision (g) allows court-connected evaluators to conduct evaluations if they (1) have completed at least 20 hours of training, (2) complete the additional 20 hours of training within 12 months of beginning practice, (3) comply with the experience requirements of subdivision (f), and

(4) are supervised by a court-connected evaluator already in compliance with the rule. This alternative means of fulfilling the training requirements does not apply to private evaluators.

The text of the proposed amended rule is attached at pages 6–10.

The proposed new form FL-325 is attached at page 11.

The proposed revised form FL-326 is attached at page 12.

Attachments

Rule 5.225 of the California Rules of Court is amended, effective January 1, 2005, to read:

Rule 5.225. Education, experience, and training standards for court-appointed child custody investigators and evaluators

~~(a)–(c) ***~~

(d) [Requirements for evaluators' qualifications: education, experience, and training] Persons appointed as child custody evaluators must:

~~(1) Effective January 1, 2004, Complete a total of 40 hours of initial training and education as described in subdivision (e); At least 20 of the 40 hours of education and training required by this rule must be completed by January 1, 2003;~~

~~(2)–(3) ***~~

~~(4) Meet the continuing education, experience, and training requirements described in subdivision (g) (h).~~

(e) [Education and training requirements] Only education acquired after January 1, 2000, that meets the requirements for training and education providers described in subdivision ~~(n)~~ (m) meets the requirements of this rule. ~~Ten of the hours required by this rule may be earned through self study that is supervised by a training provider who meets the requirements described in subdivision (n). Permissible means of training include in-person instruction and distance learning, such as broadcast instruction or online study.~~ Serving as the instructor in a course meeting the requirements described in subdivision ~~(n)~~ (m) in one or more of the subjects listed in paragraphs (1) through (21) below can be substituted for completion of the requisite number of hours specified in subdivision (d) on an hour-per-hour basis, but each subject taught may be counted only once. The hours required by this rule must include, but are not limited to, all of the following subjects:

~~(1)–(21) ***~~

(f) [Experience requirements] Persons appointed as child custody evaluators must ~~satisfy initial experience requirements by:~~

~~(1) Completing Have completed or supervising supervised three court-appointed partial or full child custody evaluations, including a written or an oral report, between January 1, 2000, and July 1, 2003; or~~

- 1
2 (2) ~~Conducting~~ Conduct six the first three child custody evaluations to which
3 they are appointed in consultation with another professional who meets
4 the education, experience, and training requirements of this rule.
5

6 **(g) [Court-connected evaluators]** Court-connected evaluators who do not yet
7 meet the education and training requirements in subdivisions (d) and (e) of this
8 rule may conduct child custody evaluations:
9

10 (1) If they have completed 20 of the 40 hours of initial training and education
11 required by subdivision (d);
12

13 (2) If they complete the additional 20 hours of training and education required
14 by subdivision (d) within 12 months of beginning practice as a child
15 custody evaluator;
16

17 (3) If they comply with the experience requirements in subdivision (f); and
18

19 (4) If, during the period in which the evaluator does not meet the requirements
20 of the rule, he or she is supervised by a court-connected evaluator who
21 has complied with the education, experience, and training requirements.
22

23 **(g) (h) [Continuing education and training]** Effective January 1, 2004, After
24 completing the initial 40 hours of training, persons appointed as child custody
25 evaluators must annually attend 8 hours of update training covering subjects
26 described in subdivision (e) ~~after completing the initial 40 hours of training.~~
27 This requirement is in addition to the annual 4 hours of domestic violence
28 update training described in rule 5.230.
29

30 **(h) (i) [Ongoing clinical consultation]** When conducting evaluations, persons
31 appointed as child custody evaluators should, where appropriate, seek guidance
32 from professionals who meet the requirements of this rule.
33

34 **(i) [Court employees]** ~~Effective January 1, 2004, court-connected evaluators may~~
35 ~~conduct evaluations if they have already completed at least 20 hours of the~~
36 ~~training required in subdivision (d) of this rule and meet all of the~~
37 ~~qualifications established by this rule within 12 months after completing the~~
38 ~~20-hour requirement. During the period in which a court-connected evaluator~~
39 ~~does not yet meet the requirements of this rule, a court-connected professional~~
40 ~~who meets the requirements of the rule must supervise the court-connected~~
41 ~~evaluator's work.~~
42

1 ~~(j) [Alternative appointment criteria]~~ If the court appoints a child custody
2 evaluator under Family Code section 3110.5(d), the court must require that the
3 evaluator:

4
5 ~~(1) Possess a master's or doctoral degree in psychology, social work, marriage~~
6 ~~and family counseling, or another behavioral science substantially related~~
7 ~~to working with families; and~~

8
9 ~~(2) Have completed the education, experience, and training requirements in~~
10 ~~subdivisions (e) and (g) of this rule.~~

11
12 ~~(k) [Licensing requirements]~~ On or after January 1, 2005, persons appointed as
13 child custody evaluators must meet the criteria set forth in Family Code section
14 3110.5(c)(1)-(5).

15
16 **(j) [Appointment criteria]**

17
18 (1) On or after January 1, 2005, persons appointed as child custody evaluators
19 must meet the criteria set forth in Family Code section 3110.5(c)(1)-(5);

20
21 (2) If there are no child custody evaluators who meet the criteria of Family
22 Code section 3110.5(c), the court may, under Family Code section
23 3110.5(d), approve appointment of an evaluator who has complied with
24 the education, experience, and training requirements in subdivisions (d),
25 (e), and (f) of this rule.

26
27 ~~(#)~~ **(k) [Responsibility of the courts]** Each court:

28
29 ~~(1) On or before January 1, 2004, Must develop local court rules to~~
30 ~~implement this rule that:~~

31
32 (A)-(B) ***

33
34 ~~(2) Effective January 1, 2004, Must use the Judicial Council form *Order*~~
35 ~~*Appointing Child Custody Evaluator* (FL-327) to appoint a private child~~
36 ~~custody evaluator or a court-connected evaluation service. Form FL-327~~
37 ~~may be supplemented with local court forms;~~

38
39 (3)-(4) ***

40
41 ~~(m)~~ **(l) [Child custody evaluator]** A person appointed as a child custody evaluator
42 must:

1
2 (1) ~~Effective January 1, 2004, complete and file with the court Judicial~~
3 ~~Council form *Declaration of Child Custody Evaluator Regarding*~~
4 ~~*Qualifications* (FL 326). This form must be filed no later than 10 court~~
5 ~~days after receipt of notification of the appointment and before any work~~
6 ~~on the child custody evaluation has begun, unless the person is a court-~~
7 ~~connected employee who must file annually with the court Judicial~~
8 ~~Council form *Declaration of Child Custody Evaluator Regarding*~~
9 ~~*Qualifications* (FL 326); Submit to the court a declaration indicating~~
10 ~~compliance with all applicable education, experience, and training~~
11 ~~requirements:~~

12
13 (A) Court-connected child custody evaluators practicing as of January 1
14 of the given year must submit Judicial Council form *Declaration of*
15 *Court-Connected Child Custody Evaluator Regarding Qualifications*
16 (FL-325) to the local family court services office or administrator by
17 January 30 of that year. Court-connected evaluators beginning
18 practice after January 1 must file form FL-325 before any work on
19 the first child custody evaluation has begun and by January 30 of
20 every year thereafter; and

21
22 (B) Private child custody evaluators must complete Judicial Council
23 form *Declaration of Private Child Custody Evaluator Regarding*
24 *Qualifications* (FL-326) and file it with the clerk's office no later
25 than 10 days after notification of each appointment and before any
26 work on each child custody evaluation has begun;

27
28 (2)–(6) ***

29
30 ~~(n)~~ (m) [Training and education providers] Eligible providers may include
31 educational institutions, professional associations, professional continuing
32 education groups, public or private for-profit or not-for-profit groups, court-
33 connected groups, and the Administrative Office of the Courts. Eligible
34 providers must:

35
36 (1)–(4) ***

37
38 (5) Meet the approval requirements described in subdivision ~~(n)~~ (n).

39
40 ~~(n)~~ (n) [Eligible training] ~~Effective July 1, 2003, Eligible training and education~~
41 ~~programs must be approved by the Administrative Director of the Courts.~~
42 ~~Training and education taken between January 1, 2000, and July 1, 2003, may~~

1 be applied toward the requirements of this rule if ~~it~~ they addresses the subjects
2 listed in subdivision (e); and ~~is~~ are either certified for continuing education
3 credit by a professional provider group or offered as part of a related
4 postgraduate degree or licensing program.

EVALUATOR (Name and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____	FOR COURT USE ONLY <h2 style="text-align: center;">Draft 7</h2> <h2 style="text-align: center;">03/29/04 mc</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
DECLARATION OF COURT-CONNECTED CHILD CUSTODY EVALUATOR REGARDING QUALIFICATIONS	

1. I, *(name)*: _____, declare that if I appeared in court and were sworn, I would testify to the truth of the facts in this declaration.
2. As of *(date)*: _____, I am a court-connected child custody evaluator for the above court.
3. I have satisfied all the requirements for a court-connected child custody evaluator set forth in Family Code sections 1816 and 3110.5 and rule 5.230 of the California Rules of Court.
4. a. ☐ I have completed all of the education, experience, and training requirements set forth in rule 5.225(d)–(e) of the California Rules of Court.
- b. ☐ I have not yet completed all of the education, experience, and training requirements set forth in rule 5.225(d)–(e) of the California Rules of Court, but
 - (1) I have completed at least 20 of the 40 hours of initial training and education required by rule 5.225(d);
 - (2) I will complete the additional 20 hours of training and education required by rule 5.225(d) within 12 months of the date I began practice as a court-connected child evaluator;
 - (3) I am in compliance with rule 5.225(f) of the California Rules of Court; and
 - (4) I am being supervised by a court-connected evaluator who has complied with all the applicable education, experience, and training requirements for court-connected evaluators.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____



(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

EVALUATOR (Name and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____	FOR COURT USE ONLY <p style="text-align: center;">Draft 7 03/29/04 mc</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	
<p style="text-align: center;">DECLARATION OF PRIVATE CHILD CUSTODY EVALUATOR REGARDING QUALIFICATIONS</p>	CASE NUMBER:

1. I, (name): _____, declare that if I appeared in court and were sworn, I would testify to the truth of the facts in this declaration.
2. On (date): _____, I was appointed by the court to perform a child custody evaluation in this matter.
3. ☐ I meet all of the requirements for a private child custody evaluator set forth in Family Code sections 1816 and 3110.5 and rules 5.225 and 5.230 of the California Rules of Court.
4. ☐ I meet all of the requirements for a private child custody evaluator set forth in Family Code sections 1816 and 3110.5 and rules 5.225 and 5.230 of the California Rules of Court **except** the licensing requirement in Family Code section 3110.5(c). I am eligible to perform an evaluation in this case pursuant to Family Code section 3110.5(d) and rule 5.225(j)(2) of the California Rules of Court because:
 - a. The court has determined that there are no evaluators who meet the criteria of Family Code section 3110.5(c) who are willing and available, within a reasonable period of time, to perform child custody evaluations; and
 - b. The parties have stipulated to having the evaluation done by an individual who does not meet the licensing criteria of Family Code section 3110.5(c).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

_____ (TYPE OR PRINT NAME)	 _____ (SIGNATURE OF DECLARANT)
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